

set of sling swivels, and/or an attachable ramrod for muzzle loading firearms when provided by the manufacturer or importer for use with the firearm in the ordinary course of commercial trade. Component parts also include any part provided with the firearm that would affect the tax status of the firearm, such as an attachable shoulder stock.

(iii) *Nontaxable parts.* Nontaxable parts include items such as extra barrels, extra sights, optical sights and mounts (in addition to iron sights), spare magazines, spare cylinders, extra choke tubes, and spare pins.

(iv) *Nontaxable accessories.* Nontaxable accessories include items such as cleaning equipment, slings, slip on recoil pads (in addition to standard buttplate), tools, gun cases for storage or transportation, separate items such as knives, belt buckles, or medallions. Nontaxable accessories also include optional items purchased by the customer at the time of retail sale that do not change the tax classification of the firearm, such as telescopic sights and mounts, recoil pads, slings, sling swivels, chokes, and flash hiders/muzzle brakes of a type not provided by the manufacturer or importer of the firearm in the ordinary course of commercial trade.

(c) *Rates of tax.* Tax is imposed on the sale of the articles specified in section 4181 of the Code at the rates indicated below.

	Percent
(1) Pistols	10
(2) Revolvers	10
(3) Firearms (other than pistols and revolvers)	11
(4) Shells and cartridges	11

(d) *Computation of tax.* The tax is computed by applying to the price for which the article is sold the applicable rate. For definition of the term "price" see section 4216 of the Code and the regulations contained in subpart J of this part.

(e) *Liability for tax.* The tax imposed by section 4181 of the Code is payable by the manufacturer, producer, or importer making the sale.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-404, 63 FR 52603, Oct. 1, 1998]

§ 53.62 Exemptions.

(a) *Firearms subject to the National Firearms Act.* Section 4182(a) provides that the tax imposed by section 4181 of the Code shall not attach to the sale of any firearms on which the tax imposed by section 5811 of the Code (relating to tax on the transfer of machine guns, short-barreled firearms, and other weapons) has been paid. Any manufacturer, producer, or importer claiming such an exemption from the tax imposed by section 4181 of the Code must maintain such records and be prepared to produce such evidence as will establish the right to the exemption.

(b) *Sales to Defense Department or to U.S. Coast Guard—(1) Military department.* Section 4182(b) of the Code provides that the tax imposed by section 4181 of the Code shall not attach to the sale of firearms, pistols, revolvers, shells, or cartridges that are purchased with funds appropriated for a military department of the United States. For this purpose, the term "military department" means the Department of the Army, the Department of the Navy, and Department of the Air Force. Included in the Department of the Navy are naval aviation and the Marine Corps.

(2) *Coast Guard.* Section 655, title 14, U.S.C., provides that no tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the United States Coast Guard.

(3) *Supporting evidence.* Any manufacturer, producer, or importer claiming an exemption from the tax imposed by section 4181 of the Code by reason of section 4182(b) and section 655, title 14 of the Code must maintain such records and be prepared to produce such evidence as will establish the right to the exemption. Generally, clearly identified orders or contracts of a military department signed by an authorized officer of the military department will be sufficient to establish the right to the exemption. In the absence of such orders or contracts, a statement, signed by an authorized officer of a military department or the Coast Guard, that the prescribed articles were purchased with funds appropriated for that military department or

the Coast Guard will constitute satisfactory evidence of the right to an exemption.

(c) *Small manufacturers, producers, and importers*—(1) *Exemption*. Section 4182(c) of the Code provides that the tax imposed by section 4181 of the Code shall not attach to any pistol, revolver, or firearm manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of those articles during the calendar year, regardless of when the articles are sold.

(2) *Controlled groups*. All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 of the Code are treated as one person for purposes of paragraph (c)(1) of this section.

(3) *Applicability*. The exemption described in paragraph (c)(1) of this section applies to articles sold by the manufacturer, producer, or importer after September 30, 2005. Application of this exemption is based on the calendar year in which the manufacture, production, or importation of the articles in question took place and does not depend on when the sale occurs. In addition, each calendar year stands alone for purposes of applying the exemption.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. TTB-62, 72 FR 51711, Sept. 11, 2007]

§ 53.63 Other tax-free sales.

For provisions relating to tax-free sales of firearms and ammunition see:

(a) Section 4221 and 27 CFR 53.131, “Tax-free sales; general rule”.

(b) Section 4223 and 27 CFR 53.132, “Tax-free sale of articles to be used for, or resold for, further manufacture”.

(c) Section 4222 and 27 CFR 53.140, “Registration”.

Subparts H–I [Reserved]

Subpart J—Special Provisions Applicable to Manufacturers Taxes

§ 53.91 Charges to be included in sale price.

(a) *In general*. The “price” for which an article is sold includes the total

consideration paid for the article, whether that consideration is in the form of money, services, or other things. However, for purposes of the taxes imposed under chapter 32 of the Code, certain collateral charges made in connection with the sale of a taxable article must be included in the taxable sale price, whereas others may be excluded. Any charge which is required by a manufacturer, producer, or importer to be paid as a condition of its sale of a taxable article and which is not attributable to an expense falling within one of the exclusions provided in section 4216 of the Code or the regulations thereunder is includable in the taxable sale price. It is immaterial for this purpose that the charge may be paid to a person other than the manufacturer, producer, or importer, or that it may be separately billed to the purchaser as a charge earmarked for expenses incurred or to be incurred in his behalf, such as charges for demonstration or display of the article, for sales promotion programs, or otherwise. With respect to the rules relating to exclusion of charges for local advertising of a manufacturer’s products, see section 4216(e) of the Code and § 53.100. In the case of sales on credit, a carrying, finance, or service charge is excludable from the sale price if it is reasonably related to the costs of carrying the deferred portion of the sale price (such as interest on the deferred portion of the sale price, expenses of book-keeping necessary to keep the records of such sales, and expenses of correspondence and other communication in connection with collection).

(b) *Tools and dies*. Separate charges for tools and dies used in the manufacture or production of a taxable article are to be included, in whole or in part, in the sale price on which the tax is based. It is immaterial whether the charges for such items are billed in a lump sum or are amortized or allocated to each of the taxable articles. If, at the termination of a contract to manufacture taxable articles, the tools and dies used in production pass to the purchaser, only the amount of depreciation of the tools and dies incurred in production, computed on a “production output” basis, should be included in